IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 715 OF 2003

BETWEEN

1. Sant Ram S/o Budhram Suryavanshi, aged about 52 years, Working as labourer on daily wages in Water Resource Department , R/o Village Semri, Post Sighori, District Bilaspur.

2. Keja Ram S/o Prem, aged about 45 years, Working as labourer on daily wages in Water Resource Department, Resident of Village Semaral, Post Office Semaral, District Bilaspur.

3. Dalgan Prasad S/o Ramadhin aged about 45 years Working as labourer on daily wages in Water Resource Department, Resident of Village Semri District Bilaspur (CG).

4. Mangat Ram S/o Mehattar aged about 45 years Working as labourer on daily wages in Water Resource Department, Resident of Village Semri, District Bilaspur (CG).

5. Santu Ram S/o Mehattar aged about 50 years, Working as labourer on daily wages in Water Resource Department, Resident of Village Semri District Bilaspur.

6. Jaggu S/o Puran aged about 45 years, Working as daily wages labourer in Water Resource Department, Resident of Village Semri District Bilaspur.

7. Pheku Ram S/o Ghanaram aged about 48 years Working as daily wages labourer in Water Resources Department, Resident of Village Bharari, District Bilaspur (CG).

8. Pardeshi S/o Paras Ram aged about 41 years Working as daily wages labourer in Water Resource Department, Resident of Village Bharari, District Bilaspur (CG).

9. Soukhi Lal S/o Sarha aged about 42 years Working as daily wages labourer in Water Resource Department, Resident of Village Bharari, District Bilaspur (CG).

10. Chait Ram S/o Milaoo aged about 46 years, Working as daily wages labourer, in Water Resource Department, Resident of Village Bharari, District Bilaspur (CG).

11. Kushal S/o Sarha aged about 47 years, Working as daily wages labouers in Water Resource Department, Resident of Village Pandarwa District Bilaspur (CG).

PETITIONERS

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1. The State of Chhattisgarh, Through the Secretary Department of Water Resources, Mantralay, D.K.S.Building Raipur (CG).

2. The Engineer-in-Chief, Water Resources Department, Raipur, Tehsil and District Raipur (CG).

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3. The Chief Engineer
Hasdeo Kachhar, Water Resources Department,
Bilaspur, Tehsil and District Bilaspur (CG).

4. The Executive Engineer,
Kharang Water Resources Department,
Bilaspur, Tehsil and District Bilaspur.

5. The Sub Divisional Officer,
Kharang Water Resources Department,
Survey Sub Division , Bilaspur,
Tehsil and District Bilaspur (CG).

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.715 OF 2003

Petitioners	:	Sant Ram and others
	versus	
Respondents	:	The State of Chhattisgarh and others

Present : Mr. Shailendra Dubey, counsel for the petitioners.
Mr. A.S. Kachhawaha, Government Advocate for the respondents/State.

ORDER
(Passed on 15th of November, 2006)

Learned counsel appearing for the petitioners submits that the petitioners were appointed as daily rated employees on contingency fund in the year 1978. It is admitted case of the petitioners that the appointment of the petitioners was not in accordance with the constitutional scheme of employment or under any rules framed under proviso to Article 309 of the Constitution of India inviting applications from all the eligible candidates. In the present case, the petitioners seek a writ/direction to the respondents to regularise services of the petitioners with effect from 1-1-1984.

2. The Supreme Court, while dealing with the matters of daily wagers, *ad hoc* employees, probationers, temporary or contractual

employees, not appointed following the procedure laid down under Articles 14, 16 and 309 of the Constitution of India, held that such appointments dehors the constitutional scheme amounts to back door entry in the matter of public employment.

3. The Constitutional Bench of the Supreme Court in *Secretary, State of Karnataka and others vs. Umadevi (3) and others*[1] has laid down clear enunciation of law which was followed later on in various decisions by the Supreme Court. Some are *Accounts Officer (A&I) A.P.SRTC and others vs. P. Chandra Sekhara Rao and others*[2] and *Surinder Prasad Tiwari vs. U.P. Rajya Krishi Utpadan Mandi Parishad and others*[3].

4. In the case of *Secretary, State of Karnataka and others vs. Umadevi (3) and others* (Supra), the Supreme Court observed as under :-

> "45. While directing that appointments, temporary or casual, be regularised or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain – not at arm's length – since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing

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so, it will be creating another mode of public appointment which is not permissible."

"47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission."

5. For the reasons above-stated and as per the law laid down by the Supreme Court, the petitioners are not entitled to absorption/permanent status or regularization in the service.

6. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 4 SCC 1
2 (2006) 7 SCC 488
3 (2006) 7 SCC 684

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